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Date April 4, 2003

To Examiner John M. HOFFMAN

Of PTO Group Art Unit 1731

Fax 703-305-3599

From David J. Cushing

Subject Petition For Withdrawal of Restriction Requirement

Our Ref Q59812Appln No 09/605,882

Conf No 7302 Inventors Pierre REBREYEND, et al.

Pages 3 (including cover sheet)

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This fax filing includes:

1. This cover sheet
2. Petition For Withdrawal of Restriction Requirement

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the above identified correspondence is being facsimile transmitted to Examiner John M. HOFFMAN at the Patent and Trademark Office on April 4, 2003 at 703-305-3599.

Respectfully submitted,


David J. Cushing

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AMENDMENT UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
GROUP 1731
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q59812

Pierre REBREYEND, et al.

Appln. No.: 09/605,882

Group Art Unit: 1731

Confirmation No.: 7302

Examiner: John M. HOFFMAN

Filed: June 29, 2000

For: PLASMA TORCH, METHOD OF FABRICATING AN OPTICAL FIBER PREFORM
AND PREFORM FABRICATION SYSTEM USING THE METHOD

PETITION FROM RESTRICTON REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants petition to have the restriction requirement imposed by the examiner in this case withdrawn.

The grounds for the petition are that the application as originally filed included three independent claims, claim 1 directed to a particular type of plasma torch, claim 2 directed to a method that required use of the plasma torch, and claim 6 directed to a system whjch incorporated the particular type of plasma torch. Claims 2 and 6 recited a "heating means of the plasma torch type," and the examiner supported his restriction requirement by interpreting the phrase "of the plasma torch type" as not requiring a plasma torch. Without this strained interpretation of this phrase, the restriction requirement is not supportable. It is submitted that this interpretation is unreasonable and not in a manner consistent with the specification or

Petition for Withdrawal of Restriction Requirement
USSN 09/605,882

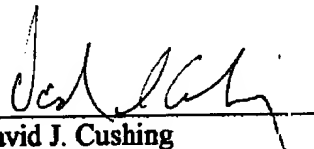
consistent with how one of skill in the art would construe the claim, and the restriction requirement as originally stated was improper.

Further, applicants have added new claims which specifically recite a plasma torch, yet the examiner has also refused to consider these claims on the grounds that they are directed to the non-elected invention. This is clearly not the case since they differ in the critical aspect relied on by the examiner to support his restriction requirement of the original claims.

Thus, examination of all claims is believed appropriate at this time.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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